

SENATE BILL 129

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Q6
SB 781/02 - JUD

2003 Regular Session
3lr0926

By: **Senator Astle**

Introduced and read first time: January 24, 2003

Assigned to: Budget and Taxation

Committee Report: Favorable

Senate action: Adopted

Read second time: February 20, 2003

CHAPTER _____

1 AN ACT concerning

2 **Recordation Tax - Refinancing Instrument - Trusts**

3 FOR the purpose of including within the definition of "original mortgagor", for
4 purposes of an exemption under the recordation tax for certain refinancing
5 instruments, the trustee of an inter vivos trust under certain circumstances; and
6 generally relating to an exemption under the recordation tax for certain
7 refinancing instruments.

8 BY repealing and reenacting, with amendments,
9 Article - Tax - Property
10 Section 12-108(g)
11 Annotated Code of Maryland
12 (2001 Replacement Volume and 2002 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Tax - Property**

16 12-108.

17 (g) (1) In this subsection, "original mortgagor" includes:

18 (I) an individual who assumed a debt secured by real property that
19 the individual purchased as a principal residence and who paid the recordation tax on
20 the consideration paid for the property; AND

21 (II) THE TRUSTEE OF AN INTER VIVOS TRUST IF:

1 1. THE MORTGAGED PROPERTY IS USED AS A PRINCIPAL
2 RESIDENCE OF THE SETTLOR OF THE TRUST; AND

3 2. THE TRUSTEE OR THE SETTLOR OF THE TRUST
4 ORIGINALLY ASSUMED OR INCURRED THE DEBT SECURED BY THE MORTGAGE OR
5 DEED OF TRUST.

6 (2) A mortgage or deed of trust is not subject to recordation tax to the
7 extent that it secures the refinancing of an amount not greater than the unpaid
8 principal amount secured by an existing mortgage or deed of trust at the time of
9 refinancing by the original mortgagor of real property that is used as a principal
10 residence:

11 (I) by the original mortgagor; OR

12 (II) BY THE SETTLOR OF AN INTER VIVOS TRUST IF THE MORTGAGE
13 OR DEED OF TRUST IS GIVEN BY A TRUSTEE OF THE TRUST.

14 (3) To qualify for an exemption under paragraph (2) of this subsection an
15 original mortgagor or agent of the original mortgagor shall include a statement in the
16 recitals or in the acknowledgment of the mortgage or deed of trust, or submit with the
17 mortgage or deed of trust, an affidavit under oath, signed by the original mortgagor or
18 agent of the original mortgagor, stating:

19 (i) that the individual is the original mortgagor or agent of the
20 original mortgagor;

21 (ii) that the mortgaged property is the principal residence of the
22 original mortgagor OR OF THE SETTLOR OF AN INTER VIVOS TRUST IF THE
23 MORTGAGE OR DEED OF TRUST IS GIVEN BY A TRUSTEE OF THE TRUST; and

24 (iii) the amount of unpaid principal of the original mortgage or deed
25 of trust that is being refinanced.

26 (4) A statement under paragraph (3) of this subsection by an agent of the
27 original mortgagor shall state that the statement:

28 (i) is based on a diligent inquiry made by the agent with respect to
29 the facts set forth in the statement; and

30 (ii) is true to the best of the knowledge, information, and belief of
31 the agent.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2003.

